



General Assembly

January Session, 2007

***Raised Bill No. 1453***

LCO No. 6130

\*06130\_\_\_\_\_JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

***AN ACT CONCERNING THE TRANSFER OF AN APPLICATION FOR  
THE APPOINTMENT OF A CONSERVATOR TO THE SUPERIOR  
COURT OR OTHER PROBATE COURT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective October 1, 2007*) (a) (1) Prior to a hearing  
2       on the merits in any case in which an application for involuntary  
3       representation, as defined in section 45a-644 of the general statutes, as  
4       amended by this act, including an application for involuntary  
5       representation by a successor conservator pursuant to section 45a-651  
6       of the general statutes, as amended by this act, is contested in a court  
7       of probate, the court of probate shall, on the motion of any party or  
8       interested person, except the person who filed the application, transfer  
9       the application for involuntary representation to the Superior Court for  
10      a determination on the merits.

11      (2) If the application for involuntary representation has not been  
12      transferred to the Superior Court pursuant to subdivision (1) of this  
13      subsection, the court of probate may, on the court's own motion or on  
14      motion of any party or interested person, transfer the application for  
15      involuntary representation to another judge of probate appointed by

16 the Probate Court Administrator from a panel of qualified probate  
17 judges for a determination on the merits.

18 (b) If the application for involuntary representation is transferred  
19 pursuant to subsection (a) of this section, the clerk of the Court of  
20 Probate shall transmit to the clerk of the Superior Court or the Court of  
21 Probate to which the application was transferred the original files and  
22 all papers related to the application.

23 (c) Any Superior Court or Court of Probate to which an application  
24 for involuntary representation is transferred pursuant to this section,  
25 upon hearing after notice is provided in the manner set forth in  
26 sections 45a-649 and 45a-650, as amended by this act, may grant the  
27 application as provided in section 45a-650, as amended by this act, and  
28 may appoint an individual or individuals to serve as conservator  
29 pursuant to granting the application.

30 (d) If the application for involuntary representation is granted by  
31 the Superior Court, the Superior Court shall promptly return the case  
32 to the referring court of probate. The referring court of probate, or any  
33 court of probate to which the records and files are subsequently  
34 transferred pursuant to section 45a-661 of the general statutes, as  
35 amended by this act, shall have jurisdiction over the conservatorship  
36 and the removal of the conservator and shall be responsible for (1)  
37 monitoring the conservator with respect to the ward who was the  
38 subject of the application, and (2) hearing any matter relating to the  
39 conservatorship arising under the general statutes.

40 Sec. 2. (NEW) (*Effective October 1, 2007*) (a) Any person may apply to  
41 the Superior Court or any judge thereof for a writ of prohibition  
42 challenging the probate court's personal or subject matter jurisdiction.

43 (b) The Superior Court may issue a writ of prohibition in any case in  
44 which a writ of prohibition may by law be granted, and may proceed  
45 in such case and render judgment according to rules adopted by the  
46 judges of the Superior Court or, in default thereof, according to the

47 course of the common law.

48 (c) When any writ of prohibition has been issued pursuant to this  
49 section requiring the party to whom it is directed to make a return, if  
50 the party fails to do so, the court may issue a peremptory order.

51 Sec. 3. Section 45a-650 of the general statutes is repealed and the  
52 following is substituted in lieu thereof (*Effective October 1, 2007*):

53 [(a) At any hearing for involuntary representation, the court shall  
54 receive evidence regarding the condition of the respondent, including  
55 a written report or testimony by one or more physicians licensed to  
56 practice medicine in the state who have examined the respondent  
57 within thirty days preceding the hearing. The report or testimony shall  
58 contain specific information regarding the disability and the extent of  
59 its incapacitating effect. The court may also consider such other  
60 evidence as may be available and relevant, including, but not limited  
61 to, a summary of the physical and social functioning level or ability of  
62 the respondent, and the availability of support services from the  
63 family, neighbors, community or any other appropriate source. Such  
64 evidence may include, if available, reports from the social work service  
65 of a general hospital, municipal social worker, director of social  
66 service, public health nurse, public health agency, psychologist,  
67 coordinating assessment and monitoring agencies, or such other  
68 persons as the court deems qualified to provide such evidence. The  
69 court may waive the requirement that medical evidence be presented if  
70 it is shown that the evidence is impossible to obtain because of the  
71 absence of the respondent or his or her refusal to be examined by a  
72 physician or that the alleged incapacity is not medical in nature. If such  
73 requirement is waived, the court shall make a specific finding in any  
74 decree issued on the petition stating why medical evidence was not  
75 required. In any matter in which the Commissioner of Social Services  
76 seeks the appointment of a conservator pursuant to chapter 319dd and  
77 represents to the court that an examination by an independent  
78 physician, psychologist or psychiatrist is necessary to determine

79 whether the elderly person is capable of managing his or her personal  
80 or financial affairs, the court shall order such examination unless the  
81 court determines that such examination is not in the best interests of  
82 the elderly person. The court shall order such examination  
83 notwithstanding any medical report submitted to the court by the  
84 elderly person or the caretaker of such elderly person. Any medical  
85 report filed with the court pursuant to this subsection shall be  
86 confidential.

87 (b) Upon the filing of an application for involuntary representation  
88 pursuant to section 45a-648, the court may issue an order for the  
89 disclosure of the medical information required pursuant to subsection  
90 (a) of this section.

91 (c) Notwithstanding the provisions of section 45a-7, the court may  
92 hold the hearing on the application at a place within the state other  
93 than its usual courtroom if it would facilitate attendance by the  
94 respondent.

95 (d) If the court finds by clear and convincing evidence that the  
96 respondent is incapable of managing his or her affairs, the court shall  
97 appoint a conservator of his or her estate unless it appears to the court  
98 that such affairs are being managed properly without the appointment  
99 of a conservator. If the court finds by clear and convincing evidence  
100 that the respondent is incapable of caring for himself or herself, the  
101 court shall appoint a conservator of his or her person unless it appears  
102 to the court that the respondent is being cared for properly without the  
103 appointment of a conservator.

104 (e) When determining whether a conservator should be appointed  
105 and in selecting a conservator to be appointed for the respondent, the  
106 court shall be guided by the best interests of the respondent. In making  
107 such determination, the court shall consider whether the respondent  
108 had previously made alternative arrangements for the care of his or  
109 her person or for the management of his or her affairs, including, but  
110 not limited to, the execution of a valid durable power of attorney, the

111 appointment of a health-care agent or other similar document. The  
112 respondent may, by oral or written request, if at the time of the request  
113 he or she has sufficient capacity to form an intelligent preference,  
114 nominate a conservator who shall be appointed unless the court finds  
115 the appointment of the nominee is not in the best interests of the  
116 respondent. In such case, or in the absence of any such nomination, the  
117 court may appoint any qualified person, authorized public official or  
118 corporation in accordance with subsections (a) and (b) of section 45a-  
119 644.

120 (f) Upon the request of the respondent or his or her counsel, made  
121 within thirty days of the date of the decree, the court shall make and  
122 furnish findings of fact to support its conclusion.

123 (g) If the court appoints a conservator of the estate of the  
124 respondent, it shall require a probate bond. The court may, if it deems  
125 it necessary for the protection of the respondent, require a bond of any  
126 conservator of the person appointed under this section.

127 (h) The court may limit the powers and duties of either the  
128 conservator of the person or the conservator of the estate, to include  
129 some, but not all, of the powers and duties set forth in subsections (a)  
130 and (b) of section 45a-644 and sections 45a-655 and 45a-656, and shall  
131 make specific findings to justify such a limitation, in the best interests  
132 of the ward. In determining whether or not any such limitations  
133 should be imposed, the court shall consider the abilities of the ward,  
134 the prior appointment of any attorney-in-fact, health care  
135 representative, trustee or other fiduciary acting on behalf of the ward,  
136 any support services which are otherwise available to the ward, and  
137 any other relevant evidence. The court may modify its decree upon  
138 any change in circumstances.]

139 (a) Any person who files an application for the appointment of a  
140 conservator of the person or a conservator of the estate for a resident of  
141 this state shall attach the person's proposed unsigned writ, summons  
142 and complaint to the following documents:

143       (1) The application, directed to the probate court or superior court to  
144       which the action is made returnable, for the appointment requested;

145       (2) An affidavit sworn to by the person filing the application or any  
146       competent affiant setting forth a statement of facts sufficient to show,  
147       (A) with respect to an application for a conservator of the person, that  
148       there is probable cause that the respondent is in need of protection  
149       from physical abuse or harm, or with respect to an application for a  
150       conservator of the estate, that there is probable cause that the  
151       respondent has property that will be wasted or dissipated unless  
152       proper management is provided, and (B) that the application will be  
153       granted taking into account any known defenses;

154       (3) A form of order that a hearing be held before the court or a judge  
155       thereof to determine whether or not the application should be granted  
156       and that notice of such hearing pursuant to subsection (e) of this  
157       section be given to the respondent;

158       (4) A form of summons directed to a proper officer commanding the  
159       officer to serve upon the respondent at least fourteen days prior to the  
160       date of the hearing, pursuant to the law pertaining to the manner of  
161       service of civil process, the application, a true and attested copy of the  
162       writ, summons and complaint, such affidavit and the order and notice  
163       of hearing;

164       (b) The application, order and summons shall be substantially in the  
165       form following:

166               APPLICATION FOR INVOLUNTARY REPRESENTATION BY A  
167                               CONSERVATOR

168       To the Superior/Probate Court for the judicial/probate district of  
169       .....

170       The undersigned represents:

171       1. That ..... has filed an application for the involuntary

172 representation of ..... of ..... (give name and address of  
173 respondent) pursuant to the attached proposed unsigned Writ,  
174 Summons, Complaint and Affidavit.

175 2. That there is probable cause that a judgment will enter in favor of  
176 the applicant for the following reasons:

177 Name of Applicant

178 By .....

179 Applicant's Attorney

180 ORDER

181 The above application having been presented to the court, it is  
182 hereby ordered, that a hearing be held thereon on ... at ... a.m. and that  
183 the applicant give notice to the respondent in accordance with section  
184 45a-649 of the general statutes of the pendency of the application and  
185 of the time when it will be heard by causing a true and attested copy of  
186 the application, the proposed unsigned writ, summons, complaint,  
187 affidavit and this order, together with such notice as is required under  
188 45a-649, to be served upon the respondent by some proper officer or  
189 indifferent person on or before ..., and that due return of service be  
190 made to this court.

191 Dated at Hartford this ... day of ....., 20...

192 Clerk of the Court

193 SUMMONS

194 To a state marshal of the county of ....., or a constable of

195 the town of ....., in said county,

196 Greeting:

197 By authority of the state of Connecticut, you are hereby commanded

198 to serve a true and attested copy of the above application, unsigned  
199 proposed writ, summons, complaint, affidavit and order upon .....,  
200 of ....., by leaving the same in his hands or at his usual place of  
201 abode on or before .....

202 Hereof fail not but due service and return make.

203 Dated at ..... this ..... day of ....., 20...

204 Commissioner of the Superior Court

205 (c) The clerk upon receipt of all such documents in duplicate, if the  
206 clerk finds them to be in proper form, shall fix a date for the hearing on  
207 the application not more than thirty days from the filing date and sign  
208 the order of hearing and notice, except that if the application includes a  
209 request for the appointment of a temporary conservator, the court or a  
210 judge of the court shall act on the application for the temporary  
211 appointment, fix a date for the hearing on the appointment of a  
212 conservator and sign the order of hearing and notice. The entry fee  
213 shall be then collected and the duplicate original document shall be  
214 placed in the court file.

215 (d) The clerk shall deliver to the applicant's attorney the original of  
216 the documents for service. Service having been made, the original  
217 documents shall be returned to the court with the endorsement by the  
218 officer of the officer's actions.

219 (e) An application for involuntary representation shall be  
220 accompanied by a notice and claim form, in such form as may be  
221 prescribed by the Office of the Chief Court Administrator, containing  
222 the following language: "THE PERSON WHO FILED AN  
223 APPLICATION FOR INVOLUNTARY REPRESENTATION IN THIS  
224 ACTION IS SEEKING TO HAVE A CONSERVATOR APPOINTED  
225 FOR YOU. IF A CONSERVATOR IS APPOINTED FOR YOU AFTER A  
226 HEARING YOU MAY LOSE SOME OR ALL OF YOUR RIGHTS. A  
227 CONSERVATOR MAY BE APPOINTED TO MAKE PERSONAL

228 DECISIONS FOR YOU, INCLUDING WHERE YOU LIVE AND  
229 WHAT MEDICAL TREATMENT YOU RECEIVE. A CONSERVATOR  
230 MAY BE APPOINTED TO MAKE DECISIONS CONCERNING YOUR  
231 PROPERTY AND FINANCES, INCLUDING CONTROL OF HOW  
232 YOU SPEND YOUR MONEY. IF A CONSERVATOR IS APPOINTED  
233 FOR YOU, YOU WILL BE BILLED FOR THE COSTS OF THE  
234 CONSERVATOR'S SERVICES AND THE CONSERVATOR WILL BE  
235 ABLE TO USE YOUR MONEY TO DEFEND HIS OR HER  
236 APPOINTMENT. YOU HAVE THE RIGHT TO BE REPRESENTED BY  
237 AN ATTORNEY OF YOUR CHOICE. IF YOU CANNOT AFFORD AN  
238 ATTORNEY, THE COURT WILL APPOINT AN ATTORNEY FOR  
239 YOU.

240 YOU HAVE RIGHTS SPECIFIED IN THE CONNECTICUT  
241 GENERAL STATUTES, INCLUDING CHAPTER 903a, THAT YOU  
242 MAY WISH TO EXERCISE CONCERNING THIS APPLICATION FOR  
243 INVOLUNTARY REPRESENTATION. THESE RIGHTS INCLUDE  
244 THE RIGHT TO:

245 (1) A HEARING ON THE APPLICATION;

246 (2) ATTEND THE HEARING;

247 (3) REQUEST THAT THE APPLICATION BE TRANSFERRED  
248 FROM THE PROBATE COURT TO THE SUPERIOR COURT OR TO  
249 ANOTHER JUDGE OF PROBATE PURSUANT TO SECTION 1 OF  
250 THIS ACT PRIOR TO ANY HEARING ON THE MERITS OF THE  
251 APPLICATION;

252 (4) OBJECT TO THE APPOINTMENT OF A CONSERVATOR;

253 (5) PRESENT EVIDENCE THAT YOU DO NOT NEED A  
254 CONSERVATOR AND TO CROSS EXAMINE WITNESSES;

255 (6) PRESENT EVIDENCE THAT THERE ARE LESS RESTRICTIVE  
256 ALTERNATIVES TO MEET YOUR CARE NEEDS AND MANAGE  
257 YOUR AFFAIRS;

258     (7) CHALLENGE THE JURISDICTION OF THIS COURT OVER  
259     THE APPLICATION;

260     (8) REQUEST THAT THE APPLICANT POST A BOND TO  
261     SECURE YOU AGAINST ANY DAMAGES THAT MAY RESULT  
262     FROM A DETERMINATION ON THE APPLICATION; AND

263     (9) VOLUNTARILY REQUEST THE APPOINTMENT OF A  
264     CONSERVATOR OF YOUR CHOOSING."

265     (f) The notice and claim form required under subsection (e) of this  
266     section shall contain (1) the name and address of any other person  
267     known to have an interest in the application, and (2) proof that the  
268     person has received a copy of all the documents required under this  
269     section and notice of the date of the hearing on the application.

270     (g) A respondent may request a hearing to contest the application  
271     for involuntary representation, present any defense or make a request  
272     concerning the posting or substitution of a bond. The hearing may be  
273     requested by any proper motion. The respondent may request that the  
274     applicant be required to post a bond to secure the respondent against  
275     any damages that may result from the filing of the application without  
276     being required to allege wilful fraud or malice.

277     Sec. 4. (NEW) (*Effective October 1, 2007*) The courts of probate shall  
278     have concurrent jurisdiction with the Superior Court in matters  
279     concerning involuntary representation of a person as provided in  
280     section 1 of this act.

281     Sec. 5. (NEW) (*Effective October 1, 2007*) (a) The judges of the  
282     Superior Court shall establish rules governing applications for  
283     involuntary representation in contested matters transferred to the  
284     court pursuant to section 1 of this act. Such rules shall provide the  
285     same rights, duties and costs to parties in such matters as are provided  
286     in the Probate Court. The Office of the Chief Court Administrator shall  
287     prescribe any forms required regarding such matters, subject to the

288 requirements of section 45a-650 of the general statutes, as amended by  
289 this act.

290 (b) In any matter before the Superior Court concerning an  
291 application for involuntary representation, the court may issue an  
292 order for the disclosure of medical information relevant to the  
293 determination of the matter in the same manner and subject to the  
294 same confidentiality requirements as provided for courts of probate in  
295 section 45a-98b of the general statutes.

296 (c) Any appeal of a decision of the Superior Court concerning an  
297 application for involuntary representation transferred to the court  
298 pursuant to section 1 of this act shall be taken to the Appellate Court  
299 not later than twelve months after the decision is rendered.

300 Sec. 6. Section 4a-15 of the general statutes is repealed and the  
301 following is substituted in lieu thereof (*Effective October 1, 2007*):

302 The estate administrator may act as guardian, conservator,  
303 administrator or trustee, or in any other fiduciary capacity under the  
304 jurisdiction and appointment of the [probate] courts of this state or  
305 [like] the courts of any other state or of the United States, or any  
306 instrumentality of any other state or of the United States qualified to  
307 appoint fiduciaries, only in connection with property of any minor,  
308 incapable, incompetent or deceased person who is or has been  
309 receiving financial aid from the state. In the case of any person  
310 receiving public or medical assistance from the state, the estate  
311 administrator shall apply toward the cost of care of such person any  
312 assets exceeding limits on assets set by statute or regulations adopted  
313 by the Commissioner of Social Services. The estate administrator shall  
314 have the same rights and powers and be subject to the same duties and  
315 obligations as are possessed by and imposed upon guardians,  
316 conservators, administrators and other fiduciaries, and such courts or  
317 instrumentalities are authorized to appoint the estate administrator,  
318 trustee or other fiduciary in connection with property of any such  
319 minor, incapable, incompetent or deceased person. The authority of

320 the estate administrator to act and of the court or instrumentality to  
 321 appoint such estate administrator shall be limited to cases in which the  
 322 estate consists of personal property only, and the amount of personal  
 323 property involved, or the annual income other than state benefits, does  
 324 not exceed fifty thousand dollars in value. The estate administrator  
 325 shall be excused from giving any bond in any court proceeding, and  
 326 shall not be allowed a fee for services.

327 Sec. 7. Subsection (c) of section 17a-506 of the general statutes is  
 328 repealed and the following is substituted in lieu thereof (*Effective*  
 329 *October 1, 2007*):

330 (c) Any person for whom a conservator of the person has been  
 331 appointed in accordance with section 1 of this act or sections 45a-644 to  
 332 45a-662, inclusive, as amended by this act, may request admission to a  
 333 hospital for psychiatric disabilities and such hospital may admit such  
 334 person. The hospital shall notify the conservator and the probate court  
 335 [which] that appointed the conservator or that has responsibility for  
 336 monitoring the conservator pursuant to subsection (d) of section 1 of  
 337 this act of the admission within five business days of such admission.  
 338 The probate court shall, within ten business days after such notice,  
 339 appoint a physician who is a psychiatrist from the panel provided by  
 340 the Commissioner of Mental Health and Addiction Services as set forth  
 341 in subsection (c) of section 17a-498. The physician shall examine the  
 342 patient within ten business days of [his] the physician's appointment to  
 343 determine if the patient has given informed consent to his or her  
 344 hospitalization. The physician shall make a report forthwith to the  
 345 court. If the court concludes that the patient did not give informed  
 346 consent to the hospitalization, the court, on its own motion, may  
 347 proceed in the manner provided in subsections (a), (b), (c) and (f) of  
 348 section 17a-498. All costs and expenses, including Probate Court entry  
 349 fees, shall be paid by the patient or, if [he] the patient has a conservator  
 350 of the estate, by such conservator.

351 Sec. 8. Section 17b-456 of the general statutes is repealed and the

352 following is substituted in lieu thereof (*Effective October 1, 2007*):

353 (a) If the Commissioner of Social Services finds that an elderly  
354 person is being abused, neglected, exploited or abandoned and lacks  
355 capacity to consent to reasonable and necessary protective services,  
356 [he] the commissioner may petition the Probate Court for appointment  
357 of a conservator of the elderly person pursuant to the provisions of  
358 sections 45a-644 to 45a-662, inclusive, as amended by this act, in order  
359 to obtain such consent.

360 (b) Such elderly person or the individual, agency or organization  
361 designated to be responsible for the personal welfare of the elderly  
362 person shall have the right to bring a motion in the cause for review of  
363 the [Probate Court's] court's determination regarding the elderly  
364 person's capacity or an order issued pursuant to sections 17b-450 to  
365 17b-461, inclusive.

366 (c) The Superior Court or the Probate Court that has jurisdiction  
367 over the petition may appoint, if [it] the court deems appropriate, the  
368 Commissioner of Social Services to be the conservator of the person of  
369 [such] the elderly person.

370 (d) In any court proceeding [in Probate Court] pursuant to the  
371 provisions of sections 17b-450 to 17b-461, inclusive, the [Probate Court]  
372 court shall appoint an attorney to represent the elderly person if [he]  
373 the elderly person is without other legal representation.

374 Sec. 9. Subsection (a) of section 45a-151 of the general statutes is  
375 repealed and the following is substituted in lieu thereof (*Effective*  
376 *October 1, 2007*):

377 (a) Upon application by executors, guardians, conservators,  
378 administrators and trustees appointed, or whose appointment has  
379 been approved, by the Court of Probate, or by conservators under the  
380 jurisdiction of the Court of Probate pursuant to subsection (d) of  
381 section 1 of this act, the court may, after such notice as the court shall

382 direct and hearing, authorize such fiduciaries to compromise and settle  
383 any doubtful or disputed claims or actions, or any appeal from probate  
384 in favor of or against the estates or persons represented by them.

385 Sec. 10. Section 45a-153 of the general statutes is repealed and the  
386 following is substituted in lieu thereof (*Effective October 1, 2007*):

387 (a) An executor, administrator, conservator, guardian, trustee in  
388 insolvency or trustee appointed, or whose appointment has been  
389 approved, by a court of probate, or a conservator under the jurisdiction  
390 of the court of probate pursuant to subsection (d) of section 1 of this  
391 act, may apply in writing to the court of probate having jurisdiction of  
392 his or her trust for an order authorizing him or her to submit the  
393 matter in controversy to the arbitration of persons who are mutually  
394 agreed upon by the applicant and the other party to any matter in  
395 controversy which is described in [subsections (a) and (b) of] this  
396 section, if: (1) He or she has any claim in his or her capacity as such  
397 fiduciary, or on behalf of the interest which he or she represents,  
398 against any person or to any property; or (2) any person has any claim  
399 against or to any property which is in his or her control in his or her  
400 capacity as such fiduciary.

401 (b) The court may authorize the submission to arbitration following  
402 a hearing of which notice has been given to the parties in interest as  
403 ordered by the court.

404 Sec. 11. Subsection (c) of section 45a-436 of the general statutes is  
405 repealed and the following is substituted in lieu thereof (*Effective*  
406 *October 1, 2007*):

407 (c) The surviving spouse, or the conservator or guardian of the  
408 estate of the surviving spouse, with the approval, after notice and  
409 hearing, of the court of probate [by which] that appointed such  
410 conservator or guardian [was appointed,] or that has responsibility for  
411 monitoring the conservator pursuant to subsection (d) of section 1 of  
412 this act shall, not later than one hundred fifty days from the date of the

413 appointment of the first fiduciary, as defined in section 45a-353, file a  
414 notice, in writing, of his or her intention to take the statutory share  
415 with the court of probate before which the estate is in settlement, and if  
416 such notice is not so filed, the surviving spouse shall be barred of such  
417 statutory share.

418 Sec. 12. Section 45a-644 of the general statutes is repealed and the  
419 following is substituted in lieu thereof (*Effective October 1, 2007*):

420 For the purposes of sections 45a-644 to 45a-662, inclusive, as  
421 amended by this act, the following terms shall have the following  
422 meanings:

423 (a) "Conservator of the estate" means a person, a municipal or state  
424 official, or a private profit or nonprofit corporation except a hospital or  
425 nursing home as defined in section 19a-521, appointed by the Superior  
426 Court or the Court of Probate under the provisions of section 1 of this  
427 act or sections 45a-644 to 45a-662, inclusive, as amended by this act, to  
428 supervise the financial affairs of a person found to be incapable of  
429 managing his or her own affairs or of a person who voluntarily asks  
430 the Court of Probate for the appointment of a conservator of the estate,  
431 and includes a temporary conservator of the estate appointed under  
432 the provisions of section 45a-654.

433 (b) "Conservator of the person" means a person, a municipal or state  
434 official, or a private profit or nonprofit corporation, except a hospital  
435 or nursing home as defined in section 19a-521, appointed by the  
436 Superior Court or the Court of Probate [Court] under the provisions of  
437 section 1 of this act or sections 45a-644 to 45a-662, inclusive, as  
438 amended by this act, to supervise the personal affairs of a person  
439 found to be incapable of caring for himself or herself or of a person  
440 who voluntarily asks the Court of Probate for the appointment of a  
441 conservator of the person, and includes a temporary conservator of the  
442 person appointed under the provisions of section 45a-654.

443 (c) "Incapable of caring for one's self" or "incapable of caring for

444 himself or herself" means that a person has a mental, emotional or  
445 physical condition resulting from mental illness, mental deficiency,  
446 physical illness or disability, chronic use of drugs or alcohol, or  
447 confinement, which results in the person's inability to provide medical  
448 care for physical and mental health needs, nutritious meals, clothing,  
449 safe and adequately heated and ventilated shelter, personal hygiene  
450 and protection from physical abuse or harm and which results in  
451 endangerment to such person's health.

452 (d) "Incapable of managing his or her affairs" means that a person  
453 has a mental, emotional or physical condition resulting from mental  
454 illness, mental deficiency, physical illness or disability, chronic use of  
455 drugs or alcohol, or confinement, which prevents [that] the person  
456 from performing the functions inherent in managing his or her affairs,  
457 and the person has property which will be wasted or dissipated unless  
458 proper management is provided, or that funds are needed for the  
459 support, care or welfare of the person or those entitled to be supported  
460 by [that] the person and that the person is unable to take the necessary  
461 steps to obtain or provide funds which are needed for the support, care  
462 or welfare of the person or those entitled to be supported by [such] the  
463 person.

464 (e) "Involuntary representation" means the appointment of a  
465 conservator of the person or a conservator of the estate, or both, after a  
466 finding by the Superior Court or the Court of Probate that the  
467 respondent is incapable of managing his or her affairs or incapable of  
468 caring for himself or herself.

469 (f) "Respondent" means an adult person for whom an application for  
470 involuntary representation has been filed or an adult person who has  
471 requested voluntary representation.

472 (g) "Voluntary representation" means the appointment of a  
473 conservator of the person or a conservator of the estate, or both, upon  
474 request of the respondent, without a finding that the respondent is  
475 incapable of managing his or her affairs or incapable of caring for

476 himself or herself.

477 (h) "Ward" means a person for whom involuntary representation is  
478 granted under section 1 of this act or sections 45a-644 to 45a-662,  
479 inclusive, as amended by this act.

480 Sec. 13. Section 45a-649 of the general statutes is repealed and the  
481 following is substituted in lieu thereof (*Effective October 1, 2007*):

482 (a) Upon an application for involuntary representation, the court  
483 shall issue a citation to the following enumerated parties to appear  
484 before [it] the court at a time and place named in the citation, which  
485 shall be served on the parties at least seven days before the hearing  
486 date, which hearing date shall not be more than thirty days after the  
487 receipt of the application by the Court of Probate or receipt of an  
488 application transferred pursuant to section 1 of this act, unless  
489 continued for cause shown. Notice of the hearing shall be sent [within]  
490 not later than thirty days after receipt of the application or receipt of  
491 the transferred application, as the case may be. (1) The court shall  
492 direct that personal service be made, by a state marshal, constable or  
493 an indifferent person, upon the following: (A) The respondent, except  
494 that if the court finds personal service on the respondent would be  
495 detrimental to the health or welfare of the respondent, the court may  
496 order that such service be made upon counsel for the respondent, if  
497 any, and if none, upon the attorney appointed under subsection (b) of  
498 this section; (B) the respondent's spouse, if any, if the spouse is not the  
499 applicant, except that in cases where the application is for involuntary  
500 representation pursuant to section 17b-456, as amended by this act,  
501 and there is no spouse, the court shall order notice by certified mail to  
502 the children of the respondent and if none, the parents of the  
503 respondent and if none, the brothers and sisters of the respondent or  
504 their representatives, and if none, the next of kin of such respondent.  
505 (2) The court shall order such notice as [it] the court directs to the  
506 following: (A) The applicant; (B) the person in charge of welfare in the  
507 town where the respondent is domiciled or resident and if there is no

508 such person, the first selectman or chief executive officer of the town if  
509 the respondent is receiving assistance from the town; (C) the  
510 Commissioner of Social Services, if the respondent is in a state-  
511 operated institution or receiving aid, care or assistance from the state;  
512 (D) the Commissioner of Veterans' Affairs if the respondent is  
513 receiving veterans' benefits or the Veterans' Home, or both, if the  
514 respondent is receiving aid or care from such home, or both; (E) the  
515 Commissioner of Administrative Services, if the respondent is  
516 receiving aid or care from the state; (F) the children of the respondent  
517 and if none, the parents of the respondent and if none, the brothers  
518 and sisters of the respondent or their representatives; (G) the person in  
519 charge of the hospital, nursing home or some other institution, if the  
520 respondent is in a hospital, nursing home or some other institution. (3)  
521 The court, in its discretion, may order such notice as [it] the court  
522 directs to other persons having an interest in the respondent and to  
523 such persons the respondent requests be notified.

524 (b) (1) The notice required by subdivision (1) of subsection (a) of this  
525 section shall specify (A) the nature of involuntary representation  
526 sought and the legal consequences thereof, (B) the facts alleged in the  
527 application, and (C) the time and place of the hearing. (2) The notice  
528 shall further state that the respondent has a right to be present at the  
529 hearing and has a right to be represented by an attorney at his or her  
530 own expense. If the respondent is unable to request or obtain counsel  
531 for any reason, the court shall appoint an attorney to represent the  
532 respondent in any proceeding under this title involving the  
533 respondent. If the respondent is unable to pay for the services of such  
534 attorney, the reasonable compensation for such attorney shall be  
535 established by, and paid from funds appropriated to, the Judicial  
536 Department, however, if funds have not been included in the budget  
537 of the Judicial Department for such purposes, such compensation shall  
538 be established by the Probate Court Administrator and paid from the  
539 Probate Court Administration Fund. If the respondent notifies the  
540 court in any manner that [he or she] the respondent wants to attend  
541 the hearing on the application but is unable to do so because of

542 physical incapacity, the court shall schedule the hearing on the  
543 application at a place which would facilitate attendance by the  
544 respondent but if not practical, then the judge shall visit the  
545 respondent, if [he or she] the respondent is in the state of Connecticut,  
546 before the hearing. Notice to all other persons required by this section  
547 shall state only the nature of involuntary representation sought, the  
548 legal consequences thereof and the time and place of the hearing.

549 Sec. 14. Subsection (d) of section 45a-651 of the general statutes is  
550 repealed and the following is substituted in lieu thereof (*Effective*  
551 *October 1, 2007*):

552 (d) During the term of appointment of the Commissioner of Social  
553 Services as conservator, if a suitable person or legally qualified person,  
554 corporation or municipal or state official is found to replace [such] the  
555 commissioner as conservator, such person, corporation or official may  
556 be appointed successor conservator subject to the approval of the court  
557 of probate or approval of the Superior Court pursuant to any  
558 application transferred pursuant to section 1 of this act.

559 Sec. 15. Subsection (c) of section 45a-653 of the general statutes is  
560 repealed and the following is substituted in lieu thereof (*Effective*  
561 *October 1, 2007*):

562 (c) A notice recorded or lodged pursuant to this section shall state  
563 that an application for appointment of a conservator is pending and  
564 shall include the name of the alleged incapable person, the name of the  
565 applicant, the judicial district or probate district in which the  
566 application is pending, as the case may be, and the date of the  
567 application. The notice shall be signed and acknowledged by the  
568 applicant. The notice shall not include the allegation of facts on which  
569 the application is based.

570 Sec. 16. Section 45a-656 of the general statutes is repealed and the  
571 following is substituted in lieu thereof (*Effective October 1, 2007*):

572 (a) The conservator of the person shall have: (1) The duty and  
573 responsibility for the general custody of the respondent; (2) the power  
574 to establish his or her place of abode within the state; (3) the power to  
575 give consent for his or her medical or other professional care, counsel,  
576 treatment or service; (4) the duty to provide for the care, comfort and  
577 maintenance of the ward; (5) the duty to take reasonable care of the  
578 respondent's personal effects; and (6) the duty to report at least  
579 annually to the probate court [which] that appointed the conservator  
580 or that has responsibility for monitoring the conservator pursuant to  
581 subsection (d) of section 1 of this act regarding the condition of the  
582 respondent. The preceding duties, responsibilities and powers shall be  
583 carried out within the limitations of the resources available to the  
584 ward, either through the ward's own estate or through private or  
585 public assistance.

586 (b) The conservator of the person shall not have the power or  
587 authority to cause the respondent to be committed to any institution  
588 for the treatment of the mentally ill except under the provisions of  
589 sections 17a-75 to 17a-83, inclusive, 17a-456 to 17a-484, inclusive, 17a-  
590 495 to 17a-528, inclusive, 17a-540 to 17a-550, inclusive, 17a-560 to 17a-  
591 576, inclusive, 17a-615 to 17a-618, inclusive, and 17a-621 to 17a-664,  
592 inclusive, and chapter 359.

593 (c) (1) If the conservator of the person determines that it is necessary  
594 to cause the ward to be placed in an institution for long-term care, the  
595 conservator may make such placement after the conservator files a  
596 report of such intended placement with the probate court that  
597 appointed the conservator or that has responsibility for monitoring the  
598 conservator pursuant to subsection (d) of section 1 of this act, except  
599 that if the placement results from the ward's discharge from a hospital  
600 or if irreparable injury to the mental or physical health or financial or  
601 legal affairs of the ward would result from filing the report before  
602 making such placement, the conservator shall make the placement  
603 before filing the report provided the conservator (A) files the report  
604 not later than five days after making such placement, and (B) includes

605 in the report a statement as to the hospital discharge or a description of  
606 the irreparable injury that the placement averted.

607 (2) The report shall set forth the basis for the conservator's  
608 determination, what community resources have been considered to  
609 avoid the placement, and the reasons why the ward's physical, mental  
610 and psychosocial needs cannot be met in a less restrictive and more  
611 integrated setting. Such community resources include, but are not  
612 limited to, resources provided by the area agencies on aging, the  
613 Department of Social Services, the Office of Protection and Advocacy  
614 for Persons with Disabilities, the Department of Mental Health and  
615 Addiction Services, the Department of Mental Retardation, any center  
616 for independent living, as defined in section 17b-613, any residential  
617 care home or any congregate or subsidized housing. The conservator  
618 shall give notice of the placement and a copy of such report to the  
619 ward and any other interested parties as determined by the court.

620 (3) Upon the request of the ward or such interested party, the court  
621 shall hold a hearing on the report and placement not later than thirty  
622 days after the date of the request. The court may also, in its discretion,  
623 hold a hearing on the report and placement in any case where no  
624 request is made for a hearing. If the court, after such hearing,  
625 determines that the ward's physical, mental and psychosocial needs  
626 can be met in a less restrictive and more integrated setting within the  
627 limitations of the resources available to the ward, either through the  
628 ward's own estate or through private or public assistance, the court  
629 shall order that the ward be placed and maintained in such setting.

630 (4) For the purposes of this subsection, [an] "institution for long-  
631 term care" means a facility that has been federally certified as a skilled  
632 nursing facility or intermediate care facility.

633 Sec. 17. Section 45a-657 of the general statutes is repealed and the  
634 following is substituted in lieu thereof (*Effective October 1, 2007*):

635 If a person has both a conservator of the person and a conservator of

636 the estate who are not the same person and a conflict arises between  
 637 the two conservators concerning the duties and responsibilities or  
 638 authority of either, the matter shall be submitted to the court of  
 639 probate [which] that appointed the conservators or that has  
 640 responsibility for monitoring the conservator pursuant to subsection  
 641 (d) of section 1 of this act. Upon hearing, the court shall order the  
 642 course of action which in the court's discretion is in the best interests of  
 643 the person under conservatorship.

644 Sec. 18. Section 45a-661 of the general statutes is repealed and the  
 645 following is substituted in lieu thereof (*Effective October 1, 2007*):

646 When any person under voluntary or involuntary representation  
 647 becomes a settled inhabitant of any town in the state in a probate  
 648 district other than the one in which a conservator was appointed or in  
 649 a probate district that has responsibility for monitoring the  
 650 conservators pursuant to subsection (d) of section 1 of this act, and is  
 651 an actual resident in such district, the court of probate in which the  
 652 conservator was appointed or that has responsibility for monitoring  
 653 the conservator shall, upon motion of the conservator, the person  
 654 under conservatorship, the first selectman or the chief executive officer  
 655 of the town in which the person under conservatorship resides or the  
 656 husband or wife or a relative of the person under conservatorship,  
 657 transfer the file to the probate district in which the person under  
 658 conservatorship resides at the time of the application. A transfer of the  
 659 file shall be accomplished by the probate court in which the  
 660 conservator was originally appointed or that has responsibility for  
 661 monitoring the conservator pursuant to subsection (d) of section 1 of  
 662 this act by making copies of all recorded documents in the court and  
 663 certifying each of them and then causing them to be delivered to the  
 664 court for the district in which the person under conservatorship  
 665 resides. When the transfer is made, the court of probate in which the  
 666 person under conservatorship resides at the time of transfer shall  
 667 thereupon assume jurisdiction over the conservatorship and any  
 668 responsibilities set forth in subsection (d) of section 1 of this act and all

669 further accounts shall be filed with such court.

670 Sec. 19. Section 45a-662 of the general statutes is repealed and the  
671 following is substituted in lieu thereof (*Effective October 1, 2007*):

672 The court of probate in which the conservator of any incapable  
673 person has been appointed or that has responsibility for monitoring  
674 the conservator pursuant to subsection (d) of section 1 of this act may,  
675 concurrently with courts of equity, order such conservator to convey  
676 the interest of his ward in any real property which ought in equity to  
677 be conveyed to another person.

678 Sec. 20. Section 45a-679 of the general statutes is repealed and the  
679 following is substituted in lieu thereof (*Effective October 1, 2007*):

680 If a ward has both a plenary guardian or limited guardian of the  
681 person with mental retardation and a conservator of the estate or  
682 person or a temporary conservator who are not the same person and a  
683 conflict arises between the two concerning the duties and  
684 responsibilities or authority of either, the matter shall be submitted to  
685 the court of probate making the appointment of such guardian or  
686 conservator or the probate court that has responsibility for monitoring  
687 the conservator pursuant to subsection (d) of section 1 of this act and  
688 such court shall, after a hearing, order the course of action which in its  
689 discretion is in the best interest of the ward.

690 Sec. 21. Section 46b-1 of the general statutes is repealed and the  
691 following is substituted in lieu thereof (*Effective October 1, 2007*):

692 Matters within the jurisdiction of the Superior Court deemed to be  
693 family relations matters shall be matters affecting or involving: (1)  
694 Dissolution of marriage, contested and uncontested, except dissolution  
695 upon conviction of crime as provided in section 46b-47; (2) legal  
696 separation; (3) annulment of marriage; (4) alimony, support, custody  
697 and change of name incident to dissolution of marriage, legal  
698 separation and annulment; (5) actions brought under section 46b-15;

699 (6) complaints for change of name; (7) civil support obligations; (8)  
 700 habeas corpus and other proceedings to determine the custody and  
 701 visitation of children; (9) habeas corpus brought by or on behalf of any  
 702 mentally ill person except a person charged with a criminal offense;  
 703 (10) appointment of a commission to inquire whether a person is  
 704 wrongfully confined as provided by section 17a-523; (11) juvenile  
 705 matters as provided in section 46b-121; (12) all rights and remedies  
 706 provided for in chapter 815j; (13) the establishing of paternity; (14)  
 707 appointment of conservators in contested matters transferred to the  
 708 court pursuant to section 1 of this act; (15) appeals from probate  
 709 concerning: (A) Adoption or termination of parental rights; (B)  
 710 appointment and removal of guardians; (C) custody of a minor child;  
 711 (D) appointment of conservators by the probate court and removal of  
 712 conservators; (E) orders for custody of any child; and (F) orders of  
 713 commitment of persons to public and private institutions and to other  
 714 appropriate facilities as provided by statute; [(15)] (16) actions related  
 715 to prenuptial and separation agreements and to matrimonial decrees of  
 716 a foreign jurisdiction; [(16)] (17) custody proceeding brought under the  
 717 provisions of chapter 815p; and [(17)] (18) all such other matters within  
 718 the jurisdiction of the Superior Court concerning children or family  
 719 relations as may be determined by the judges of said court.

720 Sec. 22. Subsection (e) of section 47-36aa of the general statutes is  
 721 repealed and the following is substituted in lieu thereof (*Effective*  
 722 *October 1, 2007*):

723 (e) Defect with respect to conveyance by fiduciary. Any deed,  
 724 mortgage, lease, power of attorney, release, assignment or other  
 725 instrument made for the purpose of conveying, leasing, mortgaging or  
 726 affecting any interest in real property in this state recorded after  
 727 January 1, 1997, which instrument was executed by an executor,  
 728 administrator, guardian, trustee, conservator or other fiduciary  
 729 pursuant to an order or authorization of the court of probate, or with  
 730 respect to a conservator, pursuant to an order or authorization of the  
 731 superior court that appointed the conservator, if applicable, and which

732 contains any one or more of the following defects, is as valid as if it  
733 had been executed without the defect:

734 (1) The fiduciary failed to post a bond required by the court for the  
735 faithful administration and distribution of the proceeds of the sale,  
736 provided either (A) the fiduciary has accounted for the proceeds of the  
737 sale in an administration account that has been approved and accepted  
738 by the court after notice and hearing, and from which order of  
739 approval and acceptance no appeal has been taken, or (B) no action  
740 challenging the validity of that instrument is commenced and no  
741 notice of lis pendens is recorded in the land records of the town or  
742 towns where the instrument is recorded within two years after the  
743 instrument is recorded;

744 (2) Required notice of the probate court hearing on the application  
745 for an order of sale was not given, provided either (A) the fiduciary  
746 has accounted for the proceeds of the sale in an administration account  
747 that has been approved and accepted by the court after notice and  
748 hearing, and from which order of approval and acceptance no appeal  
749 has been taken, or (B) no action challenging the validity of the  
750 instrument is commenced and no notice of lis pendens is recorded in  
751 the land records of the town or towns where the instrument is  
752 recorded within two years after the instrument is recorded;

753 (3) The fiduciary failed to recite in the instrument the basis of the  
754 authority by which the fiduciary acted, provided either (A) an affidavit  
755 that complies with section 47-12a, that references the volume, page,  
756 and date of the instrument, and that recites the authority pursuant to  
757 which the fiduciary executed that instrument is recorded in the land  
758 records of the town or towns in which the instrument is recorded, or  
759 (B) no action challenging the validity of the instrument is commenced  
760 and no notice of lis pendens is recorded in the land records of the town  
761 or towns where the instrument is recorded within two years after the  
762 instrument is recorded.

763 Sec. 23. Subdivision (4) of section 52-146f of the general statutes is

764 repealed and the following is substituted in lieu thereof (*Effective*  
765 *October 1, 2007*):

766 (4) Communications made to or records made by a psychiatrist in  
767 the course of a psychiatric examination ordered by a court or made in  
768 connection with the application for the appointment of a conservator  
769 by the Superior Court or the Probate Court for good cause shown may  
770 be disclosed at judicial or administrative proceedings in which the  
771 patient is a party, or in which the question of [his] the patient's  
772 incompetence because of mental illness is an issue, or in appropriate  
773 pretrial proceedings, provided the court finds that the patient has been  
774 informed before making the communications that any communications  
775 will not be confidential and provided the communications shall be  
776 admissible only on issues involving the patient's mental condition.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	New section
Sec. 2	<i>October 1, 2007</i>	New section
Sec. 3	<i>October 1, 2007</i>	45a-650
Sec. 4	<i>October 1, 2007</i>	New section
Sec. 5	<i>October 1, 2007</i>	New section
Sec. 6	<i>October 1, 2007</i>	4a-15
Sec. 7	<i>October 1, 2007</i>	17a-506(c)
Sec. 8	<i>October 1, 2007</i>	17b-456
Sec. 9	<i>October 1, 2007</i>	45a-151(a)
Sec. 10	<i>October 1, 2007</i>	45a-153
Sec. 11	<i>October 1, 2007</i>	45a-436(c)
Sec. 12	<i>October 1, 2007</i>	45a-644
Sec. 13	<i>October 1, 2007</i>	45a-649
Sec. 14	<i>October 1, 2007</i>	45a-651(d)
Sec. 15	<i>October 1, 2007</i>	45a-653(c)
Sec. 16	<i>October 1, 2007</i>	45a-656
Sec. 17	<i>October 1, 2007</i>	45a-657
Sec. 18	<i>October 1, 2007</i>	45a-661
Sec. 19	<i>October 1, 2007</i>	45a-662
Sec. 20	<i>October 1, 2007</i>	45a-679

Sec. 21	<i>October 1, 2007</i>	46b-1
Sec. 22	<i>October 1, 2007</i>	47-36aa(e)
Sec. 23	<i>October 1, 2007</i>	52-146f(4)

***Statement of Purpose:***

To (1) permit a person who is the subject of an application for appointment of a conservator to file a motion to transfer the application to the Superior Court for a determination on the merits, (2) permit any party to otherwise file a motion to transfer such application to a different Probate Court, (3) transfer jurisdiction back to the Probate Court over any conservatorship granted by the Superior Court, and (4) revise the form and notice requirements for appointment of a conservator.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*